

1 TO THE HONORABLE SENATE:

2 The Committee on Education to which was referred House Bill No. 542
3 entitled “An act relating to terminating testing of schools in Vermont for
4 polychlorinated biphenyls” respectfully reports that it has considered the same
5 and recommends that the Senate propose to the House that the bill be amended
6 by striking out all after the enacting clause and inserting in lieu thereof the
7 following:

8 Sec. 1. 2021 Acts and Resolves No. 74, Sec. E.709.1, as amended by 2022
9 Acts and Resolves No. 166, Sec. 8, and 2023 Acts and Resolves No. 78, Sec.
10 C.111, is further amended to read:

11 Sec. E.709.1 ENVIRONMENTAL CONTINGENCY FUND;

12 POLYCHLORINATED BIPHENYLS (PCBs) TESTING
13 IN SCHOOLS

14 (a) Notwithstanding 10 V.S.A. § 1283, of the funds transferred in
15 Sec. D.101(a) of this act to the Environmental Contingency Fund, the
16 Department of Environmental Conservation, in consultation with the
17 Department of Health and the Agency of Education, shall use up to \$4,500,000
18 to complete air indoor quality testing for Polychlorinated Biphenyls (PCBs) in
19 public schools and approved and recognized independent schools that were
20 constructed or renovated before 1980. All schools subject to this subsection
21 shall test for PCBs on or before ~~July 1, 2027~~ August 1, 2031.

1 Sec. 2. 10 V.S.A. § 6618a is added to read:

2 § 6618a. SCHOOL POLYCHLORINATED BIPHENYL PROGRAM FUND

3 (a) There is created the School Polychlorinated Biphenyl Program Fund to
4 be administered by the Secretary of Natural Resources to provide funding for
5 the investigation, mitigation, and remediation of polychlorinated biphenyls
6 (PCBs) at schools in Vermont. The Fund shall consist of:

7 (1) Reimbursements from a school for work related to a grant issued by
8 the State for PCB investigation, mitigation, and remediation when that school
9 recovers money from litigation or other awards. The reimbursement shall be
10 limited to the amount of the grant awarded to the school or the amount of the
11 recovery, whichever is less.

12 (2) Any recovery by the State for any claims for damages caused by
13 PCBs, except recoveries for damages to natural resources, which shall be
14 deposited in the fund established pursuant to section 1283 of this title.

15 (3) Monies from time to time appropriated to the Fund by the General
16 Assembly.

17 (4) Other gifts, donations, or other monies received from any source,
18 public or private, dedicated for deposit into the Fund and approved by the
19 Secretary of Administration.

20 (b)(1) The Secretary of Natural Resources shall administer a program to
21 issue grants to school districts to pay the costs, to the extent funds are
22 available, of the following activities in order of the priority listed:

1 (A)(i) PCB investigations that are a part of a facilities master plan; or
2 (ii) indoor air quality testing of a school initiated voluntarily by a
3 school district, provided that the school district notified the Secretary of
4 Natural Resources of the testing and the school district conducts the testing
5 according to the Department of Environmental Conservation’s standards for
6 testing;

7 (B) the development of PCB management plans;

8 (C) the costs of mitigation when results exceed the immediate action
9 level;

10 (D) the costs of implementing any approved corrective action plan
11 when, after mitigation efforts, the concentrations in the school exceed the
12 immediate action level; and

13 (E) the costs of implementing a corrective action plan as a part of a
14 school construction project.

15 (2) To the extent that funds are available, grants to school districts that
16 are required to conduct investigation, mitigation, or remediation of PCB
17 contamination in a school after Agency of Natural Resources testing shall be in
18 an amount sufficient to pay for 100 percent of the costs at the school of
19 investigation, remediation, or removal required by the Agency of Natural
20 Resources Investigation and Remediation of Contaminated Properties Rule.

1 (c) Notwithstanding any contrary provisions of 32 V.S.A. chapter 7,
2 subchapter 5, unexpended balances and interest earned by the Fund shall be
3 retained in the Fund from year to year.

4 (d) If a school district in the State recovers money from litigation or other
5 award for work covered under a grant issued under this section, the school
6 district shall reimburse the State the amount of the recovery or the amount of
7 the grant awarded to the school district under subsection (b) of this section,
8 whichever amount is less.

9 (e) In addition to any other remedy, the State may recover from a
10 manufacturer of PCBs monies expended or awarded by the State for PCB
11 investigation, testing, assessment, remediation, or removal of PCBs in a school
12 above the relevant action level.

13 Sec. 3. 16 V.S.A. § 3445 is amended to read:

14 § 3445. APPROVAL AND FUNDING OF SCHOOL CONSTRUCTION
15 PROJECTS

16 (a) Construction aid.

17 (1) Preliminary application for construction aid. A school district
18 eligible for assistance under section 3447 of this title that intends to construct
19 or purchase a new school, or make extensive additions or alterations to its
20 existing school, and desires to avail itself of State school construction aid shall
21 submit a written preliminary application to the Secretary. A preliminary

1 application shall include information required by the Agency by rule and shall
2 specify the need for and purpose of the project.

3 (2) Approval of preliminary application.

4 (A) When reviewing a preliminary application for approval, the
5 Secretary shall consider:

6 (i) regional educational opportunities and needs, including school
7 building capacities across school district boundaries, and available
8 infrastructure in neighboring communities;

9 (ii) economic efficiencies;

10 (iii) the suitability of an existing school building to continue to
11 meet educational needs; and

12 (iv) statewide educational initiatives.

13 (B) The Secretary may approve a preliminary application if:

14 (i)(I) the project or part of the project fulfills a need occasioned
15 by:

16 (aa) conditions that threaten the health or safety of students
17 or employees;

18 (bb) facilities that are inadequate to provide programs
19 required by State or federal law or regulation;

20 (cc) excessive energy use resulting from the design of a
21 building or reliance on fossil fuels or electric space heat; or

22 (dd) deterioration of an existing building; or

1 (II) the project results in consolidation of two or more school
2 buildings and will serve the educational needs of students in a more cost-
3 effective and educationally appropriate manner as compared to individual
4 projects constructed separately;

5 (ii) the need addressed by the project cannot reasonably be met by
6 another means;

7 (iii) the proposed type, kind, quality, size, and estimated cost of
8 the project are suitable for the proposed curriculum and meet all legal
9 standards;

10 (iv) the applicant achieves the level of “proficiency” in the school
11 district quality standards regarding facilities management adopted by rule by
12 the Agency; ~~and~~

13 (v) the applicant has completed a facilities master planning
14 process that:

15 (I) engages robust community involvement;

16 (II) considers regional solutions;

17 (III) evaluates environmental contaminants; and

18 (IV) produces a facilities master plan that unites the applicant’s
19 vision statement, educational needs, enrollment projections, renovation needs,
20 and construction projects; and

21 (vi) if the applicant school district is applying for construction aid
22 for a school building that was constructed or renovated before 1980, the

1 applicant has completed indoor air quality testing for polychlorinated
2 biphenyls that was conducted according to the Department of Environmental
3 Conservation’s standards for testing.

4 (3) Priorities. Following approval of a preliminary application and
5 provided that the district has voted funds or authorized a bond for the total
6 estimated cost of a project, the Agency, with the advice of the State Aid for
7 School Construction Advisory Board, shall assign points to the project as
8 prescribed by rule of the Agency so that the project can be placed on a priority
9 list based on the number of points received.

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11 Sec. 4. AGENCY OF NATURAL RESOURCES REPORT ON FUNDING
12 FOR PCB TESTING OF SCHOOLS

13 On or before January 15, 2027, the Agency of Natural Resources, in
14 consultation with the Agency of Education, shall submit to the Senate
15 Committee on Education and the House Committee on Education:

16 (1) an estimate of the additional cost to the State to complete testing,
17 mitigation, and remediation for polychlorinated biphenyls at public schools
18 and approved and recognized independent schools that were constructed or
19 renovated before 1980; and

20 (2) a plan to fund the costs estimated necessary to complete testing,
21 mitigation, and remediation.

22 Sec. 5. REPEAL

1 2023 Acts and Resolves No. 78, Sec. C.112(b)(1) and (2) (State funding of
2 grants for investigation, remediation, and removal of PCB contamination at a
3 school) is repealed.

4 Sec. 6. EFFECTIVE DATES

5 This act shall take effect on passage, except that Sec. 3 (approval and
6 funding of school construction projects) shall take effect on July 2, 2026.
7 and that after passage the title of the bill be amended to read: “An act relating
8 to testing of schools in Vermont for polychlorinated biphenyls”

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10

11 (Committee vote: _____)

12

13

Senator _____

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FOR THE COMMITTEE